

Agenda #4
May 12, 2008

Worksession

M E M O R A N D U M

May 8, 2008

TO: County Council

FROM: Susan D. John, Legislative Analyst *SS sm*

SUBJECT: **Worksession:** FY09 Operating Budget
County Attorney's Office

Those expected for this worksession:

Leon Rodriguez, County Attorney
Marc Hansen, Deputy County Attorney
Dennis Via, Budget Manager, Office of the County Attorney
Helen Vallone, Senior Management and Budget Specialist, Office of Management and Budget
Mary Beck, Manager, Office of Management and Budget

Summary of Management and Fiscal Policy Committee Recommendations

The MFP Committee held a worksession on the County Attorney budget on April 28, 2008. The Committee recommends approval of the FY09 operating budget as submitted by the Executive.

The Executive's recommendation for the County Attorney is attached at ©1-6.

Overview

For FY09, the Executive recommends total expenditures of \$5,680,860 for the Office of the County Attorney, an increase of \$261,600 or 4.8% from the FY08 approved budget.

	FY07 Actual	FY08 Approved	FY09 CE Recommended	% Change FY08-FY09
Expenditures:				
General Fund	\$5,230,560	\$5,419,260	\$5,680,860	4.83%
TOTAL Expenditures	\$5,230,560	\$5,419,260	\$5,680,860	4.83%
Positions:				
Full-time	67	70	71	1.43%
Part-time	7	5	5	0.00%
TOTAL Positions	74	75	76	1.33%
WORKYEARS	44	44.8	42.8	-4.46%

The Executive recommends two new positions charged back to other agencies and recommends the abolishment of two vacant positions.

	Full-time	Part-time	Comments
New positions for FY09	2		
Positions created during FY08	1		
Abolished positions for FY09	2		
Positions abolished during FY08			
Net Change	1		

The FY09 CE recommendation is an increase of \$261,600, which comes from the following identified same services adjustments.

Identified Same Services Adjustments:

Increase Cost: General Wage and Service Increment Adjustment	\$	256,930
Increase Cost: Retirement Adjustment	\$	37,130
Increase Cost: Group Insurance Adjustment	\$	25,140
Increase Cost: Annualization of FY08 Personnel Costs	\$	17,960
Increase Cost: Annualization of FY08 Operating Expenses	\$	13,000
Increase Cost: Printing and Mail Adjustments	\$	7,690
Total Increases:	\$	357,850
Decrease Cost: Eliminate Law Clerk Position	\$	(34,520)
Decrease Cost: Abolish Principal Administrative Aide Position	\$	(61,730)
Total Reductions:	\$	(96,250)
NET SAME SERVICES ADJUSTMENT TOTAL	\$	261,600

FY09 Expenditure Issues

The Executive's recommended FY09 budget for the Office of the County Attorney does not include any new initiatives; all increases are to provide the same level of services. Personnel costs account for 92% of the budget and operating expenses account for the remaining 8%. Expenses of \$3,377,380 and 27.3 workyears are included in the budgets for other departments that the County Attorney supports, as explained in detail on ©1. The largest single user of County Attorney assistance is the Self-Insurance Fund, with 17 of the 27.3 workyears.

Personnel Costs

This is the single largest increase in the Executive's recommended FY09 budget. Of the \$261,600 recommended increase, personnel expenditures account for \$240,910. Table 1 illustrates various personnel expenditure changes.

Table 1. Personnel Expenditure Changes for FY09

Item	Cost
General Wage and Service Increment Adj.	\$256,930
Retirement Adjustment	\$37,130
Group Insurance Adjustment	\$25,140
Annualization of FY08 Personnel Costs	\$17,960
Eliminate Law Clerk Position	(\$34,520)
Eliminate Principal Admin. Aide Position	(\$61,730)
Total:	\$240,910

The County Attorney is requesting two new positions to help manage the heavy volume of worker's compensation hearings and appeals. These positions, if approved, would increase agency chargebacks by \$119,730 and 1.8 workyears for Risk Management and the Self Insurance Fund. They are discussed in detail in the April 9, 2008 budget analysis for the Department of Finance.

The recommended budget also abolishes two vacant positions within the County Attorney's office, including a Law Clerk and Principal Administrative Aide. The elimination of these positions is due to budget constraints. The Principal Administrative Aide position was located in the Insurance Defense Litigation Division. The law clerk position was located in the Finance and Procurement Division.

Operating Expenditures

Operating expenditures increase by \$20,690 in FY09, which reflects \$13,000 for the annualization of FY08 costs as well as \$7,690 for printing and mail adjustments.

FY09 Revenue Issues

County Attorney revenues are projected to increase minimally in FY09, from \$505,010 in FY08 to \$524,000 in FY09. This increase stems from a collection fee assessed on dishonored checks due to the County. This is a new fee as of FY08, and was added as a line item in the County Attorney's Revenue Budget Summary by the Department of Finance in order to give OCA credit for collecting dishonored checks.

Council Staff Recommendation

Council staff supports the recommended FY09 budget as submitted by the Executive.

This Packet Contains:

FY09 Recommended Budget: County Attorney

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1-6

County Attorney

MISSION STATEMENT

The mission of the Office of the County Attorney is to act as the chief legal officer of Montgomery County government and to conduct all its legal business.

BUDGET OVERVIEW

The total recommended FY09 Operating Budget for the Office of the County Attorney is \$5,680,860, an increase of \$261,600 or 4.8 percent from the FY08 Approved Budget of \$5,419,260. Personnel Costs comprise 91.5 percent of the budget for 71 full-time positions and five part-time positions for 42.8 workyears. Operating Expenses account for the remaining 8.5 percent of the FY09 budget.

LINKAGE TO COUNTY RESULT AREAS

While this program area supports all eight of the County Result Areas, the following are emphasized:

❖ **A Responsive, Accountable County Government**

PERFORMANCE MEASURES

This table presents what the department estimates and projects will be the FY08 through FY10 data for its performance measures if there are no changes in funding.

Measure	Actual FY06	Actual FY07	Estimated FY08	Projected FY09	Projected FY10
Aggregate annual economic outcome of matters handled by the Office of the County Attorney: Debt Collection (\$000) ¹	12,299	8,161	20,849	12,000	12,000
Aggregate annual economic outcome of matters handled by the Office of the County Attorney: Third party damage claims collected ²	206,219	133,091	32,876	32,876	32,876
Aggregate annual economic outcome of matters handled by the Office of the County Attorney: Code Enforcement (\$)	515,083	580,961	337,256	337,256	337,256
Aggregate annual economic outcome of matters handled by the Office of the County Attorney: Value of seized property ³	N/A	N/A	N/A	TBD	TBD
Child welfare litigation volume and outcomes: Number of New Adoption Petitions Filed	15	23	12	12	12
Child welfare litigation volume and outcomes: Number of Adoptions Granted	10	21	16	16	16
Child welfare litigation volume and outcomes: Number of Children in Need of Assistance (CINA) or Guardianship Hearings	1,659	1,712	3,396	3,396	3,396
Child welfare litigation volume and outcomes: Number of Children in Need of Assistance (CINA) petitions filed	249	276	540	540	540
Child welfare litigation volume and outcomes: Number of Children in Need of Assistance (CINA) cases closed	260	267	588	588	588
Child welfare litigation volume and outcomes: Number of new Termination of Parental Rights (Termination of Parental Rights) petitions filed	30	44	52	52	52
Child welfare litigation volume and outcomes: Number of Termination of Parental Rights granted	20	16	25	25	25
Estimated total payments for Workers' Compensation claims (\$000) ⁴	6,018	5,674	5,700	5,700	5,700
Average payment for Workers' Compensation claim (\$)	7,523	4,883	4,900	4,900	4,900
Number of Workers' Compensation hearings ⁵	800	1,162	2,102	2,312	2,543
Workers' Compensation appeals	19	24	35	40	45
Self-Insurance fund litigation: Total judgments (\$)	46,576	38,904	39,148	39,148	39,148
Self-Insurance fund litigation: Total settlements (\$) ⁶	813,773	6,222,627	2,309,400	2,309,400	2,309,400
Self-Insurance fund litigation: Last offer amount (\$)	821,082	5,930,954	1,949,400	1,949,400	1,949,400
Self-Insurance fund litigation: Last demand amount (\$)	147,472,393	157,456,145	366,296,032	366,296,032	366,296,032

¹Especially productive collections in FY08.

²In general, projected years are difficult to estimate with confidence.

³In FY08, Office of County Attorney assumed responsibility for forfeiture proceedings. Estimates are being developed.

⁴Calculated as total claims handled by the Office of the County Attorney times the average payment.

⁵Assumed 10% increase for FY09 and FY10.

⁶The FY07 high settlement amount corresponds to a single civil rights case in which local government tort liability limits do not apply.

ACCOMPLISHMENTS AND INITIATIVES

❖ **Debt Collection Unit Revenue Increases** - Through January, 2008 the Collection Unit has registered \$12.1 million in net deposits from debts owed to the County. This already exceeds the forecasted amount of \$8 million for all of FY08. The increase in collected funds can be directly associated to greater efficiencies within the Unit. The Collection Unit has reduced costs by maintaining a lower financed workforce and utilized increased productivity enhancements such as automated forms generation, mailing software and "people finder" software.

❖ Productivity Improvements

- **On-Line Survey Form** - OCA created an on-line survey form to allow clients to answer a customer satisfaction survey on the web. The on-line survey eliminates the need for photocopying, requires no staff support time to tally and summarize the results, while allowing managers to generate survey summaries in any order, at any time.
- **Outside Contracting of Legal Services for Child Welfare Cases** - Continued use of outside contractors in the Health & Human Services Division saves County funds. The use of outside contractors for Child Welfare work is needed because of a continued large case load in this area.
- **Electronic Imaging System** - OCA has converted all Debt Collection and Code Enforcement paper files to an electronic file format. This enables OCA to share files with Code Enforcement Inspectors of other agencies throughout the County. The Imaging Project increases productivity by eliminating the need for duplicating paper files for staff and reducing document retrieval costs.
- **Use of Laptop Computers for the Courtroom** - The OCA has been using laptop computers with wireless connectors to communicate with the County network while attorneys are in trials and hearings taking place outside of the office. Wireless communication has been installed in the District and Circuit courts to facilitate this activity. This productivity enhancement has been especially helpful for Code Enforcement attorneys who can access case files on-line at the Court House.

PROGRAM CONTACTS

Contact Dennis Via of the Office of the County Attorney at 240.777.6715 or Helen Vallone of the Office of Management and Budget at 240.777.2755 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Insurance Defense Litigation

Provides legal defense for cases involving Montgomery County and fourteen local government Self-Insurance Fund participants (including such entities as the Montgomery County Board of Education, City of Rockville, Maryland-National Capital Park and Planning Commission, Montgomery College and the Housing Opportunities Commission) and all of their employees. The attorneys appear regularly before State and Federal courts in Maryland and the District of Columbia for trials and oral arguments and before the Workers' Compensation Commission. These cases involve litigation in the following areas:

- Common law torts
- Police civil rights claims
- Other Federal and State civil rights - constitutional torts
- Americans with Disabilities Act
- Individuals with Disabilities Education Act
- Workers' compensation
- Employment discrimination

FY09 Recommended Changes

	Expenditures	WYs
FY08 Approved	0	0.0
Decrease Cost: Principal Administrative Aide - (Collection Unit)	-61,730	-1.0
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	247,380	1.0
FY09 CE Recommended	185,650	0.0

Notes: Increase in expenditures and workyear is related to a reorganization.

Health and Human Services

The attorneys in this division act as counsel and give legal advice to the Department of Health and Human Services, including the Office of the Director and Management Services, Adult Mental Health, Aging and Disability Services, Children, Youth and Family Services, Child Welfare Services, Crisis, Income and Victim Services, Emergency Services and Public Health Services. The attorneys also represent Child Welfare Services in the Juvenile Court, in cases involving child abuse and child neglect, and Aging and Disability Services in the Circuit Court, in adult guardianship cases.

FY09 Recommended Changes

	Expenditures	WYs
FY08 Approved	887,720	7.3
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	121,260	0.0
FY09 CE Recommended	1,008,980	7.3

Finance and Procurement

Acts as counsel and gives legal advice to the County Executive, County Council, and to several County departments, agencies, boards, and commissions. The Division represents the County Government in tax and procurement matters before State, Federal, and local administrative agencies and courts; drafts and reviews agreements, legislation, regulations, and other legal documents; conducts negotiations; and prepares and issues legal opinions.

FY09 Recommended Changes

	Expenditures	WYs
FY08 Approved	1,584,020	15.0
Decrease Cost: Eliminate Law Clerk (Public Services Intern)	-34,520	-1.0
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	-790,970	-9.0
FY09 CE Recommended	758,530	5.0

Notes: Decrease in expenditures and workyears are related to a department reorganization.

Human Resources and Appeals

Attorneys act as counsel and give legal advice to the following agencies: Montgomery County Fire and Rescue Services, Ethics Commission, Board of Investment Trustees, Office of Human Resources, Department of Correction and Rehabilitation, Office of Public Information, Department of Transportation (Transit Services Division, Taxicab Unit), Human Rights Commission, Board of Appeals, and the Police Department (Internal Affairs Division). Attorneys also defend or prosecute contested cases involving the County, Self-Insurance Fund agencies, and their employees, while pending before State and Federal appellate courts.

FY09 Recommended Changes

	Expenditures	WYs
FY08 Approved	1,010,140	5.5
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	-262,020	-0.5
FY09 CE Recommended	748,120	5.0

Zoning, Land Use and Economic Development

Represents and advises the County Executive, the County Council, and various County departments, including the Department of General Services, the Department of Transportation, the Department of Housing and Community Affairs, the Department of Economic Development, and the Department of Public Libraries. Represents and advises agencies and commissions, including the Historic Preservation Commission, the Revenue Authority, Community Use of Public Facilities, and the Cable Compliance Commission. Advises the County Executive and County Council regarding telecommunications and cable matters. Represents the County with respect to land acquisitions and real estate transactions. Represents the County before Federal, State, and administrative courts. Drafts legal opinions and amendments to the County code and County regulations.

FY09 Recommended Changes

	Expenditures	WYs
FY08 Approved	380,580	4.7
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	118,230	-1.0
FY09 CE Recommended	498,810	3.7

Notes: Decrease in workyear is related to a reorganization.

Public Interest Litigation

The Division provides litigation and other legal services to County agencies and departments in support of their mission to promote general welfare and protect vulnerable citizens. The Division acts as counsel and gives legal advice to the Police Department, the Departments of Homeland Security, Environmental Protection, Permitting Services, Consumer Affairs, and Recreation. It also provides counsel to the Office of Landlord and Tenant Affairs, the Historic Preservation Commission, and the Inspector General's Office. The program represents these entities in contested cases before County Board of Appeals and in both State and Federal courts. The program also drafts and reviews agreements, legislation, regulations and other legal documents. Attorneys from the program conduct negotiations, issue legal opinions, and testify before public bodies. It is primarily responsible for the processing and prosecution of code enforcement violations from all departments, agencies, boards and commissions which are presented in the District Court of Maryland. The Debt Litigation or Collection Unit collects all monies owed to Montgomery County that have been referred to the County Attorney, including past due real property taxes, personal property taxes, code enforcement judgments, subrogation claims, bounced checks, unpaid fines, and miscellaneous amounts billed by the County.

FY09 Recommended Changes

	Expenditures	WYs
FY08 Approved	802,760	6.0
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	693,790	7.5
FY09 CE Recommended	1,496,550	13.5

Notes: Increase in workyears and expenditures is related to a reorganization.

Support Services

Provide administrative, research, and technical guidance and support to the other programs within the Department. The program is designed to allow for an equitable distribution of work assignments, to cross-train staff, and to evaluate fairly the performance of the program staff. The program provides administrative support to the Risk Management Fund, and revenue support to the Risk Management Fund, Revenue Authority, and Solid Waste Fund.

FY09 Recommended Changes

	Expenditures	WYs
FY08 Approved	216,530	3.3
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	115,280	1.0
FY09 CE Recommended	331,810	4.3

Notes: Increase in workyear and expenditures is related to a reorganization.

Administration

Provides internal personnel, financial, and operational management for the Office of the County Attorney.

FY09 Recommended Changes

	Expenditures	WYs
FY08 Approved	537,510	3.0
Increase Cost: Printing and Mail Adjustments	7,690	0.0
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	107,210	1.0
FY09 CE Recommended	652,410	4.0

Notes: Increase in workyear and expenditures is related to a reorganization.

BUDGET SUMMARY

	Actual FY07	Budget FY08	Estimated FY08	Recommended FY09	% Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	3,577,129	3,960,930	3,667,640	4,082,080	3.1%
Employee Benefits	1,001,286	993,940	916,660	1,113,700	12.0%
County General Fund Personnel Costs	4,578,415	4,954,870	4,584,300	5,195,780	4.9%
Operating Expenses	652,145	464,390	680,870	485,080	4.5%
Capital Outlay	0	0	0	0	—
County General Fund Expenditures	5,230,560	5,419,260	5,265,170	5,680,860	4.8%
PERSONNEL					
Full-Time	67	70	70	71	1.4%
Part-Time	7	5	5	5	—
Workyears	44.0	44.8	44.8	42.8	-4.5%
REVENUES					
Child Welfare FFP Federal Reimbursement	9,494	338,960	338,960	338,960	—
Revenue Authority Reimb. for Legal Services	0	74,050	74,050	74,050	—
County Attorney Collection Fee	0	0	18,990	18,990	—
County Code Subscription Fee	75,604	92,000	92,000	92,000	—
County General Fund Revenues	85,098	505,010	524,000	524,000	3.8%

FY09 RECOMMENDED CHANGES

	Expenditures	WYs
COUNTY GENERAL FUND		
FY08 ORIGINAL APPROPRIATION	5,419,260	44.8
Other Adjustments (with no service impacts)		
Increase Cost: General Wage and Service Increment Adjustments	256,930	0.0
Increase Cost: Retirement Adjustment	37,130	0.0
Increase Cost: Group Insurance Adjustment	25,140	0.0
Increase Cost: Annualization of FY08 Personnel Costs	17,960	0.0
Increase Cost: Annualization of FY08 Operating Expenses	13,000	0.0
Increase Cost: Printing and Mail Adjustments [Administration]	7,690	0.0
Decrease Cost: Eliminate Law Clerk (Public Services Intern) [Finance and Procurement]	-34,520	-1.0
Decrease Cost: Principal Administrative Aide - (Collection Unit) [Insurance Defense Litigation]	-61,730	-1.0
FY09 RECOMMENDED:	5,680,860	42.8

PROGRAM SUMMARY

	FY08 Approved		FY09 Recommended	
	Expenditures	WYs	Expenditures	WYs
Insurance Defense Litigation	0	0.0	185,650	0.0
Health and Human Services	887,720	7.3	1,008,980	7.3
Finance and Procurement	1,584,020	15.0	758,530	5.0
Human Resources and Appeals	1,010,140	5.5	748,120	5.0
Zoning, Land Use and Economic Development	380,580	4.7	498,810	3.7
Public Interest Litigation	802,760	6.0	1,496,550	13.5
Support Services	216,530	3.3	331,810	4.3
Administration	537,510	3.0	652,410	4.0
Totals	5,419,260	44.8	5,680,860	42.8

CHARGES TO OTHER DEPARTMENTS

Recipient Department	Recipient Fund	FY08		FY09	
		Total\$	WYs	Total\$	WYs
GENERAL FUND					
Board of Appeals	General Fund	72,430	0.5	82,180	0.5
Board of Investment Trustees	BIT 457 Deferred Comp. Plan	59,980	0.5	66,190	0.5
Cable Communications Plan	Cable Television	81,300	0.5	93,600	0.5
DEP-Solid Waste Services	Solid Waste Collection	32,200	0.3	31,240	0.3
DEP-Solid Waste Services	Solid Waste Disposal	96,620	0.7	105,300	0.7
DOT-Parking Lot Districts	Parking District - Bethesda	14,560	0.1	11,560	0.1
DOT-Parking Lot Districts	Parking District - Silver Spring	21,840	0.2	34,670	0.2
Finance	General Fund	153,710	1.1	166,700	1.0
Health and Human Services	General Fund	170,590	2.2	170,590	2.2
Housing and Community Affairs	Landlord-Tenant Affairs	78,720	0.5	41,410	0.5
Housing and Community Affairs	Montgomery Housing Initiative	136,890	1.0	163,320	1.0
Human Resources	Employee Health Benefit Self Insurance Fund	6,000	0.1	7,290	0.1
Human Resources	Retirement Saving Plan	6,000	0.1	7,290	0.1
Human Resources	Employee Retirement System	41,990	0.3	51,030	0.3
Intergovernmental Relations	General Fund	22,220	0.3	25,160	0.3
Liquor Control	Liquor Control	55,750	0.3	0	0.0
Permitting Services	Permitting Services	132,800	1.0	153,570	1.0
Risk Management	Self Insurance	1,792,750	17.0	2,056,680	17.0
Technology Services	General Fund	99,110	1.0	109,600	1.0

FUTURE FISCAL IMPACTS

Title	CE REC.		(\$000's)			
	FY09	FY10	FY11	FY12	FY13	FY14
This table is intended to present significant future fiscal impacts of the department's programs.						
COUNTY GENERAL FUND						
Expenditures						
FY09 Recommended	5,681	5,681	5,681	5,681	5,681	5,681
No inflation or compensation change is included in outyear projections.						
Labor Contracts	0	277	298	298	298	298
These figures represent the estimated cost of general wage adjustments, service increments, and associated benefits.						
Central Duplicating Deficit Recovery Charge	0	-1	-1	-1	-1	-1
This per employee charge will be eliminated in FY10.						
Subtotal Expenditures	5,681	5,957	5,978	5,978	5,978	5,978